



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2016-0916]

RIN 1625-AA01

Anchorage; Captain of the Port Puget Sound Zone, WA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking; withdrawal.

SUMMARY: The Coast Guard is withdrawing its notice of proposed rulemaking entitled “Anchorage; Captain of the Port Puget Sound Zone, WA” that we published on February 10, 2017. The Coast Guard is withdrawing this rulemaking in response to public comments and to better analyze potential impacts to tribal treaty rights, especially treaty fishing rights.

DATES: The notice of proposed rulemaking is withdrawn on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The docket for this withdrawn rulemaking is available by searching docket number USCG-2016-0916 using the Federal portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of inquiry, call or email LCDR Christina Sullivan, U.S. Coast Guard Sector Puget Sound; telephone 206-217-6042, email SectorPugetSoundWWM@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

II. Background

We published a notice of proposed rulemaking (NPRM) in the **Federal Register** on February 10, 2017 (82 FR 10313), entitled “Anchorages; Captain of the Port Puget Sound Zone, WA.” In the NPRM, we proposed the creation of several new anchorages, holding areas, and a non-anchorage area as well as the expansion of one existing general anchorage in the Puget Sound area, as detailed in the proposed regulatory text. The Coast Guard received feedback from concerned citizens, commercial entities, environmental groups, and from Indian Tribal Governments and tribal officials regarding the proposed rulemaking. These comments were made available in the docket. Based on the information received from the tribes in the docket, the Coast Guard is withdrawing the proposed rulemaking at this time so as to better analyze tribal impacts before conducting further rulemaking on anchorages in Puget Sound. The Coast Guard actively exercises its authority to manage vessel traffic in the Puget Sound in a safe and effective manner, both historically and at present. The Coast Guard is committed to improving the navigational safety of all Puget Sound waterway users, and is continually engaged in efforts to improve safety through coordination with waterways users.

The Coast Guard provided notice of its intent to withdraw the rulemaking and also its intent not to schedule consultation with the tribes on the proposed rulemaking in light of the withdrawal. In that published notification (82 FR 54307, November 17, 2017), the Coast Guard requested comment on whether or not withdrawal is appropriate, and also if tribal consultation was still necessary in light of the the Coast Guard’s stated intent to withdraw the proposed rule.

III. Discussion of Comments

The Coast Guard received nine written submissions in response to its request for comment on its intent to withdraw the proposed rule; six concerned citizens, two on behalf of coalitions of environmental groups, and one from a federally recognized tribe. Of the nine commenters, one commenter supported the withdrawal, three commenters indicated that withdrawal is not supported without an environmental impact statement being done, one commenter supported continuing with the rule so long as an environmental impact study is conducted, and four commenters made no affirmative or negative comment on withdrawal of the proposed rule, but requested an environmental impact statement. The Coast Guard is withdrawing its proposed rulemaking based on the comments received and in order to better analyze the impacts to tribal treaty rights, especially treaty fishing rights.

All commenters requested or emphasized the importance of an environmental impact statement. The Coast Guard will follow all applicable laws and regulations, including the National Environmental Policy Act, with respect to any anchorages rulemaking in the Puget Sound that may be conducted in the future.

Two commenters requested the Coast Guard conduct an environmental impact statement on the use of uncodified anchorages before withdrawing the current proposed rule. The Coast Guard's withdrawal of the proposed anchorage rule is not a government action for which an environmental impact statement on the uncodified anchorages is required.

Two commenters indicated that tribal consultation is appropriate within the proposal area with respect to the proposed rule, two commenters deferred to tribal governments on the issue of whether tribal consultation on this rule is appropriate, and one tribe commented that it had previously engaged with the Coast Guard on a government-to-government basis and submitted comments on the proposed rule. The Coast Guard is committed to upholding its responsibilities

as the federal trustee of the tribes' interests, and will conduct formal government-to-government consultation when required under Executive Order 13175. The Coast Guard is withdrawing the current proposed rulemaking and has engaged with the tribes to address broader treaty rights issues in processes outside this rulemaking. As a result of the above actions, the Coast Guard will not conduct consultation on this specific rulemaking.

IV. Withdrawal

The Coast Guard has determined that withdrawing the proposed rule is appropriate based on the new information received from the tribes in the docket. Accordingly, the Coast Guard is withdrawing the "Anchorages; Captain of the Port Puget Sound Zone, WA" proposed rulemaking announced in an NPRM published February 10, 2017 (82 FR 10313). As noted, the Coast Guard has the authority and ability to manage vessel traffic in the Puget Sound in a safe and effective manner. We are committed to improving the navigational safety of all Puget Sound waterway users, and will continually consider ways to do so in an effective and least burdensome manner consistent with tribal treaty fishing rights.

Dated: April 23, 2018.

David G. Throop,
Rear Admiral, U.S. Coast Guard,
Commander, Thirteenth Coast Guard District.

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